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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/734,937	12/12/2003	John A. Gardner JR.	65961-0129	1448

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BLOOMFIELD HILLS, MI 48304-0610

EXAMINER

AHMAD, NASSER

ART UNIT	PAPER NUMBER
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1772

DATE MAILED: 05/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/734,937

Applicant(s)

GARDNER, JOHN A.

Examiner

Nasser Ahmad

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 11 February 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 36-67 is/are pending in the application.
- 4a) Of the above claim(s) 36-52 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 53-67 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 12/12/03.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election with traverse of Group II (claims 53-67) in the reply filed on February 11, 2005 is acknowledged. The traversal is on the ground(s) that the search of the entire application could be made without serious burden. This is not found persuasive because, as mentioned in the last Office Action of January 12, 2005, the invention groups have acquired separate status in the art as shown by their different classification, and a search for all the claims would be of undue burden to the examiner.

The requirement is still deemed proper and is therefore made FINAL.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 53-55, 57, 65-66 and 67 are rejected under 35 U.S.C. 102(e) as being anticipated by Wirt (5728342).

Wirt relates to a layered composite structure comprising an outer layer (48) with an opaque visual appearance defining the exterior surface of a panel structure (col. 4, lines 50-56), and an inner layer (38) adhered to the inner surface of the outer layer. The inner

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layer further comprises a pre-formed seam structure (28) defining a frangible line corresponding to an invisible tear seam. The inner layer is adhesively bonded to the outer layer via foam layer (46). The structure further comprises a woven fabric layer between the inner layer (38) and the foam layer (46) for reinforcement. The woven fabric is understood to include open mesh fabric. The outer layer and the inner layer can be polyurethane (col. 4, lines 50-60), and the polyurethane layers are non-cellular but thermoplastic.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 56 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wirt in view of Iannazzi (5429784).

Wirt, as discussed above, fails to teach that the mesh reinforcement is fiberglass.

Iannazzi discloses a reinforced air bag cover by embedding a reinforcing material into the layer such that it surrounds the tear seam (abstract). The reinforcing material can be woven mesh of fiberglass (col. 2, lines 62-67). Therefore, it would have been obvious to one having ordinary skill in the art to utilize Iannazzi's teaching of using fiberglass mesh as the reinforcement layer in the invention of Wirt with the motivation to provide for rapid and accurate tear along the seam when the air bag is deployed.

6. Claim 58 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wirt in view of Rafferty (5222760).

Wirt, as discussed above, fails to teach that a protruding peripheral wall from the inner layer and away from the outer layer. Rafferty discloses an air bag panel (16) with tear seam (abstract) and comprising an outer layer (18, an inner layer (30) and a tear seam (60). As shown in figure-3, the inner layer is provided with protruding walls adjacent the end portions (52, 54) and said walls protrude away from the outer layer. Therefore, it would have been obvious to one having ordinary skill in the art to utilize Rafferty's teaching of using protruding walls from the inner layer and away from the outer layer in the invention of Wirt to provide for enhanced strength to the seam structure.

***Allowable Subject Matter***

7. Claims 59-64 are allowed.

The prior art uncovered so far fails to teach or suggest that the outer layer comprises a water-dispersed composition comprising at least one light-stable thermoplastic polyurethane, at least one coloring agent and at least one heat-activated cross-linker; and the inner layer is a composition which cross-links the inner layer about the seam defining structure with the polyurethane of the outer layer via residual unreacted functional groups of the cross-linkers to form interfacial chemical bonding between the inner surface of the outer layer and an adjacent surface of the inner layer.

### ***Double Patenting***

8. A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

9. Claims 59-64 are rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 1-7 of prior U.S. Patent No. 6,753,057. This is a double patenting rejection.

Both the instant claimed invention and the Patent'057 are directed to the same structure and composition of the layered composite for a panel of a vehicle.

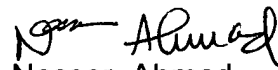
### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nasser Ahmad whose telephone number is 571-272-1487. The examiner can normally be reached on 7:30 AM to 5:00 PM, and on alternate Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on 571-272-1498. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Nasser Ahmad  
Primary Examiner  
Art Unit 1772

N. Ahmad.  
May 16, 2005.